Most mortgage lenders and brokers have their customers' best interests in mind but there are some who may try to take advantage of consumers by using abusive or "predatory" lending practices. Although federal law does not define "predatory" lending, and states define abusive lending differently, they usually involve practices that strip equity away from a homeowner.

Many times abusive or "predatory" lenders target people who are strapped for cash – often preying on the elderly and people in lower income groups. Homeowners can be tricked into taking out loans that they cannot afford to repay. Some homeowners may even lose their homes to foreclosure.

WHAT YOU SHOULD KNOW TO PROTECT YOURSELF

Whether purchasing or refinancing a home, or funding a home improvement/repair, consumers must make important financial decisions. You need to know a "good" loan from a "bad" one; otherwise, you could end up paying too much, hurting your credit rating – and even losing your home. Be sure that you are well informed and aware of all your options. Different lenders may quote you different prices, so you should contact several lenders to make sure you're getting the best price.

Look at all "closing costs", including "points" and all fees to be charged at closing. Ask about these at application. An informed consumer should not be surprised at closing.

Understand Your Contract

Listed below are several terms that are frequently used in the lending industry. Knowing these terms is the first step to understanding a loan contract and making an educated borrowing decision. Before you sign any loan document, be sure to review the following terms in the contract:

Know the Amount Financed - This is the dollar amount of the credit that is provided to you by your lender.

Know the Finance Charge and the Annual Percentage Rate (APR) - Credit costs vary. By remembering two terms - the finance charge and the APR - you can compare credit prices from different sources. Federal law requires that the creditor tell you - in writing and before you sign any agreement - what these terms will be.

A document called the Truth in Lending Disclosure Statement will show you the APR and other payment information for the loan you have applied for. The APR is the percentage cost (or relative cost) of credit on a yearly basis, which is your key to comparing costs, regardless of the amount of credit or how long you have to repay it. The APR takes into account not only the interest rate, but also the points, mortgage broker fees and certain other fees that you have to pay.

The finance charge is the total dollar amount you pay to use credit. It is based on the interest and fees charged, the amount borrowed, and the length of the loan.

Beware of inflated fees and charges! A home loan often involves many fees, such as loan origination or underwriting fees, broker fees, and transaction, settlement, and closing costs. Ask for an explanation of any fee or cost you do not understand. Every lender or broker should be able to give you an estimate of the fees and charges that you are likely to incur at the settlement of your loan.

Know if You Are Paying "Points" - "Points" are fees that affect your interest cost which are paid to the lender for the loan. One point equals 1 percent of the loan amount. In some cases, the money needed to pay points can be borrowed, but doing so will increase the loan amount and the total costs. Ask for points to be quoted to you as a dollar amount rather than the number of points, so that you will actually know how much you will have to pay. Again, compare with other lenders.

Know the Total Number and Exact Dollar Amount of Each Payment - This will help you determine if the loan is within your budget. It is important to also consider other possible contract terms, such as "balloon payments," when examining the cost and affordability of the loan.

Know the Payment Date - This is the date the payment must be *received* by the lender to avoid late fees.

Know About Collateral - In a real estate loan your home is most likely your collateral to secure the loan. If you default on the loan, the lender may take your collateral -- your home.

RECOGNIZING ABUSIVE OR "PREDATORY" PRACTICES

Abusive or "predatory" lending practices can include:

- Making loans without regard to the borrower's ability to repay.
- Repeatedly refinancing a loan within a short period of time and charging high points and fees with each refinance (may be referred to as "flipping").
- Charging excessive rates and fees to a borrower who qualifies for lower rates and/or fees offered by the lender.
- "Packing" a loan with extra charges or products such as single premium credit insurance products, and not adequately disclosing the inclusion, cost, or any additional fees associated with the insurance.
- Aggressive and deceptive marketing through the use of "live check" in the mail – the loan has an artificially high interest rate and monthly payment in order for the predatory lender to be able to offer the homeowner an opportunity to refinance it, along with other debts, into another loan.
- Excessive prepayment penalties.
- Negative amortization – the monthly payment on the loan is insufficient to pay off accrued interest and therefore increases the principal balance, resulting in a situation where the borrower actually owes more than the amount originally borrowed.
- Balloon payments – This is a large payment usually at the end of the loan term, often after a series of low monthly payments. Although there may be a valid purpose for balloon payments, beware of loans that are structured so that most of the principal amount is still owed at the end of the loan period, sometimes causing the borrower to pay higher fees and additional costs to refinance the loan.
- Making loans in excess of 100% loan to value (LTV) – where the loan amount exceeds the fair market (appraised) value of the home. This can be dangerous because it makes it difficult for the borrower to refinance the loan or sell the house to pay off the loan. In addition, if the borrower defaults on the loan, a foreclosure sale may not generate enough to pay off the loan and the borrower could be subject to a deficiency claim.

How Do I Avoid Abusive or "Predatory" Practices?

Shop around. If you need a loan, start by contacting local financial institutions or licensed mortgage brokers and lenders. See if you are eligible for a loan from a local bank, credit union, or mortgage company. Ask lenders about government programs - you may be eligible for a loan insured through the Federal Housing Administration or guaranteed by the Department of Veterans Affairs or similar programs operated by cities or states. These programs usually require a smaller downpayment.

Whether you borrow for home repairs, medical expenses, or debt consolidation, compare total costs of the loan as well as interest rates. Understand the points and fees. A loan with a lower monthly payment is not always the better deal; it may have a high "balloon" payment that is due in a few years.

Don't be afraid to ask questions. Before borrowing money, know exactly what the lender is offering. You have a legal right to know the total cost of the loan, the annual percentage rate, the monthly payments, and how long you have to pay back the loan. Always ask questions until you understand everything. Have all fees and points explained. It is important to know more than the monthly payment.

Be cautious. Many times abusive or "predatory" lenders seek out people who have bad credit – they make most of their money from the high fees and closing costs to refinance the loan they knew you couldn't repay in the first place. Be suspicious of anyone who offers you "bargain loans," whether they send you an offer, call you on the phone, or come to your door. Avoid solicitations for loans that sound too good to be true. If it sounds too good to be true, it probably is. If a solicitation is really interesting, get it in writing! Be suspicious of anyone who contacts you first — most reputable mortgage lenders or credit companies don't solicit business over the phone or just show up on your doorstep unannounced.

Never act too quickly. Avoid lenders who call and promise guaranteed, low-interest loans, who take applications over the phone, or who offer next-day approval if you give them some money today. Be suspicious of lenders who ask for up-front fees "to cover the first payment and other expenses." You may never receive the loan.

Read carefully before you sign. Whenever you borrow money, don't sign anything you don't fully understand. Always assume that any paper you sign is a binding contract. You can insist on changing anything in a contract that you don't like or can't agree to. If the lender won't change the contract to your satisfaction, get a loan somewhere else. Before you sign the loan papers, consider asking a lawyer or trusted friend to go over them with you. Don't sign a document with blank spaces; all spaces should be filled in before you sign.

Think about a reverse mortgage. For homeowners who are 62 or older, a reverse mortgage may be better than getting a home equity loan. A reverse mortgage gives you money that you don't have to repay until you move, sell the house, or die. You choose to get the money as a lump sum payment, a monthly income, or a combination of both. If you get a reverse mortgage, you can't lose your house to foreclosure the way you could with a home equity loan. A reverse mortgage does use the equity in your home, so consider your options carefully.

The Georgia Fair Lending Act

The Georgia Fair Lending Act (the Act) became effective on October 1, 2002, and applied to all "home loans" closed after that date. On March 7, 2003, Governor Sonny Perdue signed Senate Bill 53, a bill to amend the Georgia Fair Lending Act. This law is the most significant new statute affecting the residential mortgage loan process in Georgia in 10 years.

The intent of the Act is to prohibit abusive mortgage lending practices. The Act imposes liability on loan brokers, loan servicers, and loan purchasers or assignees; however, the amended Act greatly limits assignee liability.

Older people, disabled people and families living on low incomes are preyed upon and too often they end up losing the one thing that gave them financial stability - the equity in their home.

For loans closed between October 1, 2002 and March 6, 2003, refer to the Department's companion brochure titled "**The Georgia Fair Lending Act**" to learn more about the original Act. For loans closed on or after March 7, 2003, refer to the Department's companion brochure titled "**The Georgia Fair Lending Act Amended 3/7/2003**" to learn more about the amended Act.

Mortgage Lending Resources

Federal Reserve Board
The Federal Reserve Board provides an online brochure called "Looking for the Best Mortgage". The online brochure is available in English and Spanish.
http://www.federalreserve.gov/pubs/mortgage/mortb_1.htm

Federal Trade Commission
The Federal Trade Commission cautions homeowners to be on the lookout for home equity scams. Go to:
www.ftc.gov/bcp/conline/pubs/alerts/eqtyalrt.htm

National Consumer Law Center
The National Consumer Law Center has detailed information on how to spot home loan scams. Go to:
www.consumerlaw.org/consumer/foreclose.html

You may also wish to review these websites that feature online mortgage worksheets:
http://www.hud.gov/senior.html
http://www.mbaa.org
http://www.mortgage101.com

Department of Banking & Finance Resources

Find out if a mortgage lender or broker is licensed or registered in Georgia, and whether any complaints have been filed, by visiting our website: http://www.state.ga.us/dbf/mortgage.html

To read the Georgia Fair Lending Act or the Department's questions and answers regarding the Act, go to the GAFLA Resources Page of the Department's website at:
http://www.state.ga.us/dbf/GAFLAresources.html

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Website: http://www.gadbf.org

Toll Free Consumer Hotline: (888) 986-1633

PROTECT YOURSELF FROM ABUSIVE MORTGAGE LENDING PRACTICES

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